out to reconnoitre? If he was to leave it on the switch, there was the possibility that the box cars would be shunted down upon him before he could regain his seat. The defendant did not show whether there was a locomotive at the forward end, or whether the cars were so few that a locomotive could be seen. If he was to leave his vehicle near the curb, there was even stronger reason to believe that the space to be covered in going back and forth would make his observations worthless. One must remember that while the traveler turns his eyes in one direction, a train or a loose engine may be approaching from the other.

Illustrations such as these bear witness to the need for caution in framing standards of behavior that amount to rules of law. The need is the more urgent when there is no background of experience out of which the standards have emerged. They are then, not the natural flowerings of behavior in its customary forms, but rules artificially developed, and imposed from without. Extraordinary situations may not wisely or fairly be subjected to tests or regulations that are fitting for the common-place or normal. In default of the guide of customary conduct, what is suitable for the traveler caught in a mesh where the ordinary safeguards fail him is for the judgment of a jury. *Dolan* v. *D. & H. C. Co.*, 71 N. Y. 285, 288, 289; *Davis* v. *N. Y. C. & H. R. R. Co.*, 47 N. Y. 400, 402. The opinion in *Goodman's* case has been a source of confusion in the federal courts to the extent that it imposes a standard for application by the judge, and has had only wavering support in the courts of the states.[4] We limit it accordingly.

The judgment should be reversed and the cause remanded for further proceedings in accordance with this opinion.

It is so ordered.

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[4] Many cases are collected in 43 Harvard Law Review 926, 929, 930, and in 56 A. L. R. 647.

See also: Dobson *v.* St. Louis S. F. R. Co., *supra*; Key *v.* Carolina & N. W. R. Co., *supra*; Gills *v.* N. Y. C. & St. L. R. Co., *supra*; Georgia Railroad & Banking Co. *v.* Stanley, *supra*; Miller v. N. Y. C. R. Co., 226 App. Div. 205, 208; 252 N. Y. 546; Schrader *v.* N. Y. C. & St. L. R. Co., 254 N. Y. 148, 151; Dolan *v.* D. & H. C. Co., *supra*; Huckshold *v.* St. L., I. M. & S. R. Co., 90 Mo. 548. Contra: Koster *v.* Southern Pacific Co., 207 Cal. 753, 762; Vaca *v.* Southern Pacific Co., 91 Cal. App. 470, 475; Davis *v.* Pere Marquette R. Co., 241 Mich. 166, 169; cf. Torgeson *v.* Missouri-K-T R. Co., *supra*.